Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of:	)	
	)	
Petition of Core Communications, Inc. for	)	
Forbearance under 47 U.S.C. § 160(c) from	)	WC Docket No. 06-100
Rate Regulation Pursuant to § 251(g) and for	)	
Forbearance from the Rate Averaging and	)	
Integration Regulation Pursuant to § 254(g)	)	

REPLY COMMENTS OF
CORE COMMUNICATIONS, INC.

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Dated: June 26, 2006

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Core Communications, Inc. ("Core"), by its undersigned attorneys, hereby files its reply comments in accordance with the Federal Communications Commission's ("FCC's") May 8, 2006 Public Notice in the above-captioned proceeding.

I. INTRODUCTION AND SUMMARY

In its April 27, 2006 Petition, Core requested that the Commission, with respect to all telecommunications carriers, forbear from two statutory provisions of the Act, 47 U.S.C. §§ 251(g) and 254(k), and their related implementation rules. More specifically, with respect to section 251(g), Core's Petition requests that the Commission forbear from enforcement of:

- Section 251(g) of the Act, and related implementing rules to the extent they apply to or regulate the rate for compensation for switched "exchange access, information access, and exchange services for such access to interexchange carriers and information service providers,"[1] pursuant to state and federal access charge rules; and

1 47 U.S.C. § 251(g).

- Any limitation, by FCC rule or otherwise, on the scope of section 251(b)(5) that is implied from section 251(g) preserving receipt of switched access charges.[2]

With respect to section 254(g), Core's Petition requests that Commission forbear from that statutory provision, and its implementing rules related to rate averaging or integration.

On June 5, 2006, a substantial number of parties offered comment in response to Core's Petition, and although certain parties disagree with various aspects of Core's request, there can be no doubt that the industry understands that Commission grant of the relief requested by Core would result in the harmonization of intercarrier compensation rates for all carriers and all traffic under section 251(b)(5) of the Act, 47 U.S.C. § 251(b)(5). No party disputes that section 251(g) and the regulations it preserves maintains comparatively high rates for "access" services (services that incumbents specialize in) and much lower rates for local services (services that competitors specialize in), such as traffic destined to end users that happen to be Internet Service Providers ("ISPs"), even though the functionality provided by the underlying carrier is identical. No party credibly disputes that section 254(g) creates implicit subsidies to local exchange carriers ("LECs") that happen to be in rural areas by mandating national averaging of interexchange services in order to mask (and preclude the pass-through of) exorbitant rural LEC access charges.

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2 *See* Order on Remand and Report and Order, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*; *Intercarrier Compensation for ISP-Bound Traffic*, 16 FCC Rcd. 9151, 9168 (rel. Apr. 27, 2001 ("*ISP Remand Order*"), *rev'd on other grounds and remanded*, *WorldCom v. FCC*, 288 F.3d 429 (D.C. Cir. 2002), *cert. denied*, 538 U.S. 1012 (2003). On July 14, 2003, Core petitioned for forbearance from the *ISP Remand Order*. Because the Commission failed to act to deny Core's request forbearance, Core's petition was deemed granted and the *ISP Remand Order* was eliminated through forbearance on October 11, 2004. This issue is pending before the Court of Appeals for the District of Columbia Circuit, *In re: Core Communications, Inc.*, Nos. 04-1368 *et al.* (oral argument held Oct. 27, 2005).

Grant of Core's request for 251(g) Forbearance and 254(g) Forbearance[3] would eliminate the regulatory arbitrage resulting from the existing intercarrier compensation regimes, unify intercarrier compensation for all telecommunications under section 251(b)(5) of the Act, and would accordingly benefit consumers, telecommunications carriers, competition, and the public interest. As Core noted in its Petition, regulatory arbitrage results when a statutory provision or regulation is enacted for the purposes of establishing or preserving disparate economic regimes for otherwise identical functionality. At bottom, the regulatory arbitrage codified ten years ago through sections 251(g) and 254(g) has made intercarrier compensation reform impossible to achieve, and only through forbearance can the Commission expect to eliminate these outdated statutory provisions and implementing rules.

Five years of fruitless Commission effort and the comments in response to Core's Petition bears this out. Following their self-interest, the Bell Operating Companies ("BOCs") are uniformly against Section 251(g) Forbearance but favor 254(g) Forbearance. The rural LECs favor no forbearance, and although they claim to desire reform, any reasonable reading of their comments demonstrates that their real plan is to delay any type of reform for as long as possible to maximize the cash they receive through regulatory arbitrage. Recognizing the existing morass of self interest for what it is, "Sprint Nextel has reluctantly come to agree with Core ... that forbearance ... seems to be the only tool available to break the logjam and achieve broad, and much-needed reform."[4]

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3 In these reply comments, Core will refer to its request for forbearance from section 251(g) and related implementing rules as "251(g) Forbearance" and to its request for forbearance from section 254(g) and related implementing rules as "254(g) Forbearance."

4 Sprint Nextel Comments at 3.

No commenter seriously challenges the propriety of the forbearance requested by Core, and indeed, every commenter purports to agree with the Commission's unification goals. However, where the intercarrier compensation rubber meets the unification road, the majority of commenters reveal that they will use virtually any means to delay reform, including the use of flimsy arguments against Core's requested forbearance. The arguments of the BOCs and rural LECs in opposition to Core's Petition can be broken down into three basic categories. First, certain parties suggest that Core's Petition is somehow unclear, or not otherwise specific enough. Second, Core's opponents claim – without elaboration or explanation – that the relief requested by Core does not satisfy the statutory forbearance standard set forth in the Act. Third, some parties manufacture procedural claims never before endorsed by the Commission in considering a forbearance petition. As demonstrated herein, all of these criticisms fall well short of the mark, and careful reading of the comments underscore the need for the Commission to grant Core's Petition.

II. ALTHOUGH ALL PARTIES CLAIM TO BE REFORMERS, THE INDUSTRY HAS BEEN UNABLE TO REACH ANYTHING REMOTELY RESEMBLING A CONSENSUS PLAN

Among the most interesting theme common to all commenters is the need for intercarrier compensation reform. "Sprint Nextel firmly supports the call for immediate reform of the existing irrational system of intercarrier compensation, and agrees that adoption of a unified system based on [s]ection 251(b)(5) reciprocal compensation arrangements is in the public interest."[5] Qwest concedes that Core's petition "is predicated on a basic truth" and that

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5 *Id.*, 1.

"the existing regulatory structure governing intercarrier compensation is in desperate need of a massive overhaul."[6]

AT&T expressly states that "[t]here is no doubt that the entire system of intercarrier compensation urgently needs reform."[7] The Western Telecommunications Alliance ("WTA") "agrees that revision and rationalization of the existing intercarrier compensation system is necessary,"[8] and that "the present patchwork of intercarrier compensation mechanisms needs to be revised and rationalized."[9] The Independent Telephone and Telecommunications Alliance *et al.* ("ITTA") similarly states that "there is widespread agreement with the goal of achieving rational and, where appropriate, unified intercarrier compensation rate structures."[10] Of course, ITTA's "where appropriate" carve out likely applies to subsidies received by those other than ITTA members.

In spite of the "basic truth" of Core's Petition and the "urgent" need for reform, many commenters advocate on-going delay. As just one example, in its thin plea for delay, WTA notes that "industry groups containing Bell Operating Companies and/or rural telephone companies (*i.e.,* the Intercarrier Compensation Forum, the Expanded Portland Group and the Alliance for Rational Intercarrier Compensation) have submitted reform proposals" to the Commission that need to be considered.[11] Those plans have been pending before the Commission for a year or more, and although those groups at one time may have filed plans, as best Core can tell, none of those groups continue to exist in any meaningful way. Moreover,

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6 Qwest Comments at 4.
7 AT&T Comments at 2.
8 WTA Comments at 2.
9 *Id.*, 5.
10 ITTA Comments at 8.
11 WTA Comments at 2.

Core is not aware that any of those groups – to the extent they may still exist – continues to support their original plans. Indeed, those groups appear to be superseded by a small, self-interested collection of BOCs and rural LECs under the banner of the "NARUC Task Force on Intercarrier Compensation." This group apparently plans to submit a plan to the Commission at some point in the future. That said, no one has any idea when this might occur. In any event, however, this group – which has no CLEC, cable, or independent wireless representatives – by no means can be considered an "industry consensus group," unless the consensus is about how to best preserve existing regulatory arbitrage.

It's easy, especially in Washington, DC, to go on record in support of a principle, but never back it up with a plan that has a specific start date. The Commission has stated its desire to unify the existing, irrational set intercarrier compensation regimes, and grant of Core's Petition would do just that under section 251(b)(5). With section 160, Congress provided a statutory deadline and remedy to encourage in the strongest terms Commission action by a date certain, and grant of Core's Petition on or before the expiration of the statutory deadline would satisfy the Commission's goal of unifying intercarrier compensation systems and Congress' direction to eliminate outdated regulations by a date certain.

III. THE RELIEF REQUESTED BY CORE IS CLEAR ON ITS FACE

Reverting back to their hackneyed playbook, the United States Telecom Association ("USTelecom") and various of LEC commenters claim that the relief requested by Core is unclear or otherwise confusing. Yet any reading of the comments in this proceeding demonstrates beyond a doubt that all parties fully and completely understand that grant of Core's Petition would unify today's disparate intercarrier compensation regimes under section 251(b)(5) of the Act. There is no ambiguity.

As USTelecom notes, the "thrust of Core's petition is that carriers should face dramatic reductions in their intercarrier compensation revenues, **including those that indisputably embody substantial implicit subsidies**...."[12] Core could not agree more that the intercarrier compensation unification that would result through grant of Core's petition would eliminate implicit subsidies that presently benefit carriers with bloated access charge rates. Core disagrees, however, that grant of its petition would somehow result in "no adequate opportunity to make up for all the lost compensation from other sources."[13] Parties, including rural LECs, are free to roll out new services or otherwise seek (through regulatory means or otherwise) to increase charges to their end users.[14] To the extent additional, justified revenues are needed (which Core doubts), rural LECs are free to seek additional, **explicit** corporate welfare from the federal universal service fund or other federal or state governmental sources.

At the same time Qwest criticizes Core's petition as "amorphous,"[15] Qwest concedes that "grant of the Core petition would accomplish" the elimination of "originating switched access and reducing terminating switched access rates."[16] Similarly, although it feigns confusion over the relief requested by Core, the WTA understands Core's petition exceedingly well. As the WTA succinctly notes:

> In essence, Core is asking the Commission to scrap precipitously "for all telecommunications carriers" the entire established system of interstate access charges (and perhaps the system of intrastate access charges as

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12 USTelecom Comments at 5 (emphasis added).

13 *Id.*

14 Indeed, all LECs frequently bundle "unregulated services" with regulated services, but never report their "unregulated" revenue to the government. Instead, they cry poor about their inability to recover regulated revenue and network costs, even though "unregulated" revenue from DSL and other services is generated by the exact same network plant. Competitors get no such "free pass" from the government.

15 Qwest Comments at n. 3.

16 *Id.*, 6.

> well). Core wants the Commission instead to require intercarrier compensation for long distance toll and other interexchange traffic as well as local traffic, to be negotiated and determined via the reciprocal compensation process of 251(b).[17]

Core notes that the Western Alliance's characterization is about right, although Core would note that the Commission's existing section 251(b)(5) rules establish a default proxy range of between $0.002 and $0.004 per minute of use for traffic termination, which would apply in the absence of a final agreement by parties.[18]

At the same time it defends above-cost cost recovery for its members, WTA attacks Core's effort to recover its network costs through intercarrier compensation pursuant to the much lower rates established under section 251(b)(5) of the Communications Act.[19] WTA's assault on Core's effort to recover the cost of its network investment is an unfettered effort by WTA to maintain regulatory arbitrage. Core deserves the right to recover its network costs on a fair basis, just like any other carrier. As USTelecom concedes, "rural networks are even more dependent on intercarrier compensation than are networks in more densely-populated areas,"[20] such as Core's network. That said, Core and others deserve the same opportunity for network cost recovery for providing the same functionality as other network providers, and grant of Core's petition would provide just this result pursuant to section 251(b)(5).

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17 WTA Comments at 1.
18 47 C.F.R. § 51.707(b)(1).
19 WTA Comments at 4-5 .
20 USTelecom Comments at 3 (quoting USTelecom's July 20, 2005 comments in CC Docket No. 01-92).

IV. CORE'S REQUEST FOR SECTION 251(G) FORBEARANCE AND SECTION 254(G) FORBEARANCE SATISFIES THE STATUTORY STANDARD

Section 160(a) of the Communications Act requires the Commission to grant forbearance if it determines that:

- enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory;[21]
- enforcement of such regulation or provision is not necessary for the protection of consumers;[22] and
- forbearance from applying such provision or regulation is consistent with the public interest.[23]

In addition, the Commission is required to consider the competitive effect of grant of a forbearance petition,[24] and these competitive effects can be part of the Commission's public interest analysis.[25] As demonstrated in Core's Petition, the requested 251(g) Forbearance and 254(g) Forbearance satisfies the criteria set forth in section 160(a), and nothing posed in any parties' comments credibly suggest an alternative result.

A. Section 251(g) Forbearance

As Core explained in its Petition, enforcing 251(g) and its related price regulations is not necessary to ensure that the charges and practices of carriers "are just and

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21 47 U.S.C. § 160(a)(1).

22 *Id.* § 160(a)(2)

23 *Id.* § 160(a)(3). In considering this public interest prong, section 10(b) directs the Commission to consider whether grant of forbearance "will enhance competition among providers of telecommunications services." 47 U.S.C. § 160(b).

24 *Id.*, § 160(b).

25 *Id.*, § 160(a)(3).

reasonable and not unreasonably discriminatory."[26] Indeed, the exact opposite is true. Maintaining section 251(g) creates regulatory arbitrage by maintaining vastly disparate rates for identical functionality for no economic reason. Rather, 251(g) is a tool for regulatory price discrimination and only by eliminating it will the Commission be able to assure that rates are just and reasonable and not unreasonably discriminatory. Accordingly, Core's 251(g) Forbearance request satisfies section 10(a)(1).

Enforcing section 251(g) and it pricing regulations similarly is not necessary for the protection of consumers. Maintaining widely disparate intercarrier compensation rates for otherwise identical functionality harms consumers and does not protect them by creating implicit subsidies for certain technologies based not on economics, but on arbitrary regulatory distinctions. Eliminating regulatory arbitrage codified by section 251(g) will even the playing field among telecommunications providers and result in consumer benefit by eliminating subsidies to certain carriers and technologies based on regulatory fictions, and instead allow consumers to make service and technology choices based on the real economics of an offering. Thus, Core's 251(g) Forbearance request satisfies section 10(a)(2).

Finally, Core's 251(g) Forbearance request is consistent with the public interest and will promote competition by providing the Commission a vehicle to unify intercarrier compensation rates, which is the stated Commission goal. Section 251(g) and its related rate regulations have been the primary sources of intercarrier compensation regulatory arbitrage, and by granting Core's Section 251(g) Forbearance request, the Commission would greatly reduce regulatory arbitrage and promote competition by leveling the intercarrier compensation playing

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[26] *Id.*, § 160(a)(1).

field. Without question, then, grant of Core's Section 251(g) Forbearance request would further the public interest and promote competition, consistent with section 10(a)(3) and 10(b).

Verizon complains that grant of Core's requested 251(g) Forbearance would not resolve a number of intercarrier compensation-related issues, such as regulation of VoIP traffic, transit traffic, "Virtual NXX" traffic, and "phantom traffic."[27] Regardless of the Verizon's efforts to create a dust storm to obscure the issues, the fact of the matter is that grant of Core's petition would maintain all traffic under section 251(b)(5), and that alone would go a long way toward resolving the regulatory arbitrage that plagues the current intercarrier compensation morass, especially those associated with Virtual NXX traffic and so-called "phantom traffic." If traffic termination rates are unified under section 251(b)(5), it simply won't matter whether traffic is "Virtual NXX," "phantom," or called by some other pejorative. Grant of Core's Petition would treat traffic like traffic, and termination like termination, fulfilling a Commission goal that has been left unachieved for a decade.

The Pennsylvania Telephone Association ("PTA") concedes that "access charges have never been cost based,"[28] and apparently PTA will do anything and say anything to ensure that cost-based reform – this Commission's explicit goal – never is achieved.[29] Indeed, PTA admits that its members' bloated access charges are "a critical revenue stream of many millions

27 Verizon Comments at 3.

28 PTA Comments at 6.

29 Although PTA claims that the "regulated LEC community in Pennsylvania faces in-territory, facilities-based competition," PTA fails to admit that it routinely opposes competitive entry in its members' territories by cable operators and CLECs. Indeed, much of the diatribe contained in PTA's meritless comments is cut and pasted from its on-going effort to keep Core from providing service in its member territories. Core will address those PTA comments before the Pennsylvania Public Utilities Commission.

of dollars,"[30] and that effectively 100 percent of PTA's members' interstate revenues come from access charges.[31] PTA apparently has take regulatory arbitrage to new heights of "success."[32]

Verizon claims that grant of Core's petition would be at odds with "the Commission's prior determinations that access charge reform should be achieved through market-based solutions rather than the imposition of additional regulations."[33] Foremost, Core's petition would **eliminate** substantial regulation, rather than create new regulation. Moreover, the industry has over ten years of experience negotiating (and arbitrating when necessary) agreements to implement traffic exchange under section 251(b)(5). This negotiation and arbitration process is exactly the type of "market-based solution" that Commission has favored, and eliminating the current system of access tariffs would further the Commission's deregulatory goals.

ICORE complains that grant of Core's petition would "slash the regulated rate that local exchange carriers may charge for use of their local networks to originate or terminate long distance traffic to TELRIC-based rates ..."[34] WTA laments what it claims to be "fraudulent attempts to evade access charges entirely"[35] through means, "such as the omission or stripping of data that would identify the originating carriers and locations (otherwise known as the 'phantom

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30 PTA Comments at 7.

31 *Id.* at 8.

32 PTA states that it's members receive nearly 38% of their revenue from intercarrier compensation payments, which amounts to $231 million dollars a year. PTA Comments at 8. WTA members "derive from 25 percent to 55 percent of their revenues from access charges." WTA Comments at 10.

33 Verizon Comments at 11.

34 ICORE Comments at 4

35 WTCA Comments at 6.

traffic' problem)."[36] Grant of Core's petition would eliminate "phantom traffic"-type issues by establishing a single intercarrier compensation regime under section 251(b)(5) of the Act.

WTA notes that "[p]redictable and sufficient cost recovery is essential to WTA members if they are to continue investing in and operating telecommunications facilities in high-cost areas…."[37] The same is true for all carriers, including Core. To the extent that WTA members need government hand-outs for some reason, it has the ability and the right to petition the federal and state government for explicit subsidies.

B. Section 254(g) Forbearance

Many carriers, including several that oppose 251(g) Forbearance, support 254(g) Forbearance. "AT&T supports Core's request that the Commission forbear from [section] 254(g) of the Act and Commission Rules 64.1801 & 64.1900," as "[r]ate integration and rate averaging are tools that no longer serve any legitimate purpose."[38] Even "Verizon agrees that there may be certain specific circumstances where forbearance from the rate averaging and integration rules is warranted."[39] Indeed, Verizon states directly that 254(g) Forbearance "is warranted because the rigid enforcement of the rate averaging and rate integration rules discriminates against nationwide long-distance carriers, undermines competition in urban markets, and ultimately disserves both consumers and the public interest."[40] Indeed, USTelecom, the self-styled "leading trade association representing communications service providers and suppliers for the telecom industry," implicitly supports Core's request for 254(g) Forbearance and many of its members explicitly support 254(g) Forbearance.

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36 *Id.*
37 WTA at 4.
38 AT&T Comments at 1.
39 Verizon Comments at 15.
40 *Id.*, 16.

The primary adverse affect of section 254(g) and its implementing rules is "to allow some carriers to charge unreasonably high access charges without fear the economic discipline that otherwise would apply to those rates as a result of competition in the market for long distance services."[41] In 1996, when section 254(g) was added to the Act, "intermodal competition for long distance services – both from wireless and VoIP – had largely not developed. . . ."[42] The onset of these forms of competition, however, "supports the conclusion that rate integration and rate averaging are not necessary to ensure that rural consumers receive the benefits of long distance competition."[43] Of course, "a unified intercarrier compensation system, coupled with a competitive interexchange marketplace, render[s] the existing rate averaging and integration requirements superfluous."[44]

The State of Hawaii claims alternatively that "Section 254(g) does not result in an implicit or explicit subsidy to rural LECs"[45] and that "[t]he very purpose of geographic rate averaging and rate integration is to promote universal service by, if necessary, covering a portion of the high costs of providing long distance telephone services in rural and high-cost areas with revenues from low-cost area."[46] Of course, that is the exact definition of a subsidy.

Contrary to WTA's assertion, Core understands very well that intercarrier compensation is "necessary to recover the substantial costs of constructing and operating local exchange networks, and to encourage and enable investment in the future upgrades and the

41 AT&T Comments at 4.
42 *Id.*, 7.
43 *Id.*
44 Sprint Nextel Comments at 1.
45 State of Hawaii Comments at 9.
46 *Id.*, 6.

expansion of such networks."[47] In attempting to recover network costs at a rate consistent with section 251(b)(5) – the very rate WTA claims to be too low, Core repeatedly has faced savage attacks from the LECs.

Intriguingly, the State of Hawaii and the WTA don't understand that section 254(g) maintains implicit subsidies to rural LECs.[48] AT&T provides a crisp response, noting that rate integration and rate averaging "serve mainly to disguise implicit subsidies and to stymie intercarrier compensation reform efforts."[49]

V. THE PROCEDURAL ARGUMENTS RAISED BY VARIOUS PARTIES ARE MERITLESS

Realizing implicitly (if not explicitly) that Core's Petition satisfies section 160(a)'s three-part test, section 160(b)'s competitive analysis, and the Commission's long-standing policy goals, some incumbents attempt to bootstrap procedural arguments in an effort to block the unification relief compelled by Core's Petition. Not surprisingly, the procedural arguments presented rely neither on Commission precedent nor on the plain language of the statute. Rather, the incumbents attempt to contort the statute to avoid much needed intercarrier compensation reform.

For one, Verizon claims that grant of Core's petition would somehow result in "new regulation."[50] That simply is not the case. As Core explained at in its Petition in detail, by forbearing from section 251(g) and related price regulation, the existing 251(g) carve-out would be eliminated. Section 251(b)(5) would continue to exist, and by its own terms, section 251(b)(5) applies to **all** telecommunications. Far from creating "new regulation," grant of Core's

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47 WTA Comments at 7.
48 State of Hawaii at 1-2; WTA at 11-12.
49 AT&T Comments at 1.
50 Verizon Comments at 2.

Petition for 251(g) Forbearance would eliminate the long-outdated regulation preserved by section 251(g).

The "standing" argument raised by incumbents similarly falls flat. ITTA, for example, asserts that "Core has failed to demonstrate it has the necessary jurisdictional standing to request regulatory forbearance under section 10(c) of the Act either on its own behalf or on behalf of other carrier it dies not represent."[51] The intriguingly named Rural Independent Competitive Alliance ("RICA") claims that "Core's Petition is improper because it seeks relief for carriers other than itself, who have not joined in its request."[52] RICA further claims that the "Act does not contemplate what is effectively a class action forbearance request."[53]

In nearly the same breath, RICA concedes that "[t]elecommunications carriers or classes of carriers may submit forbearance requests 'with respect to *that* carrier or *those* carriers ....'"[54] Of course, Core is a telecommunications carrier and its has requested forbearance relief with respect to all telecommunications carriers.[55] Section 160(a) requires that Commission to "forbear from applying any regulation or any provision of this chapter to a telecommunications carrier or telecommunications service or class of telecommunications carrier or telecommunications services, in any or some of its or their geographic markets...."[56] Accordingly, by virtue of being a telecommunications carrier requesting forbearance from the application of certain regulations to all telecommunications carriers, Core's Petition is entirely appropriate under section 160 and the Commission has ample authority to grant the relief

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51 ITTA Comments at 2.
52 RICA Comments at 1.
53 *Id.*, 2.
54 *Id.*, n. 1 (emphasis original) (citing 47 U.S.C. 160(c)).
55 Core Petition at 1.
56 47 U.S.C. 160(a).

requested by Core across all carriers in all jurisdictions or to otherwise provide more narrow relief.

Put another way, the incumbent LECs effectively attempt to interpret section 160 as only being available to them. Their story goes something like this: Only incumbent LECs are affirmatively regulated by most Commission regulations, and therefore, they are the only ones that can ask for forbearance. That simply is not the case. Section 160 requires the Commission to forbear from "applying any regulation or any provision of [Title II] to a telecommunications carrier or a class of telecommunications carrier or telecommunications services, in any or some of its or their geographic markets…."[57] Thus, under the plain language of the statute, the Commission has very broad discretion to grant forbearance petitions.

The Commission may choose to apply a forbearance ruling to any telecommunications carrier or class of telecommunications carrier, or to any telecommunications service or any class of telecommunications services. In the case of Core's petition, application of the grant of forbearance to all telecommunications carriers is necessary in order to unify intercarrier compensation systems. Bizarre indeed would a decision that grants Core's petition as applicable only to Core or to some other subset of telecommunications carriers. Such a result may benefit Core, but would do little to eliminate the regulatory arbitrage that is rampant in the industry.

Finally, the State of Hawaii claims that it "unclear whether the Commission's forbearance authority under Section 160(a) extends to the rate integration requirements of

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[57] 47 U.S.C. § 160(a).

Section 254(g)."[58] The reach of section 160(a), however, unequivocally extends to all telecommunications carriers, all telecommunications services, and all geographic areas, including interstate interexchange services that fall within the scope of section 254(g).

In contrast to these arguments, Core notes that AT&T clearly states that "forbearance is a tool that the Commission may employ to advance the cause of intercarrier compensation reform."[59] AT&T is correct, and moreover, there can be no doubt that anything less than forbearance from the Commission will result in delay and on-going controversy, rather than "urgently needed" reform.

VI. CONCLUSION

Consistent with the foregoing, the Commission should reject the arguments of Core's opponents and grant the requested 251(g) Forbearance and 254(g) Forbearance as between all telecommunications carriers as soon as reasonable practicable to eliminate regulatory arbitrage and unify intercarrier compensation rates.

Respectfully submitted,

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Dated: June 26, 2006

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58 State of Hawaii Comments at 4. Interestingly, the State of Hawaii takes no position on Core's request for 251(g) Forbearance.

59 AT&T Comments at 1.